Supreme Court, U.S.
FILED

08-13 APR 26 2008

OFFICE OF THE CLERK
William K. Suter, Clerk

In The

Supreme Court of the United States

ALHAJJ MALIKI ALMAHDI

Petitioners,

v.

COMMONWEALTH OF MASSACHUSETTS
CITY OF SPRINGFIELD, DISTRICT ATTORNEY

Respondents.

On Petition for Writ of Certiorari
To The United States Supreme Court

PETITION FOR WRIT OF CERTIORARI

ALHAJJ MALIKI ALMAHDI, PRO SE
228 Locust Street, Apartment 8
Springfield, MA 01108

Pro Se for Petitioner,
Alhajj Maliki Almahdi

QUESTION PRESENTED

Did the Supreme Judicial Court for the Commonwealth of Massachusetts err or abuse its discretion in denying defendant-appellant's request for relief from excessive, unconstitutional bail under the Eighth Amendment of the Constitution.

PARTIES TO THE PROCEEDING

Petitioner,

Defendant-Appellant: Alhajj Maliki Almahdi, *Pro Se*
228 Locust Street, Apartment 8
Springfield, Massachusetts 01108

Respondents,

Plaintiff-Appellee: Commonwealth of Massachusetts

Counsel:

Attorney Richard Morse
Assistant District Attorney
Hampden County Hall of Justice
50 State Street
Springfield, Massachusetts 01103

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CASES

Stack v. Boyle, 342 U.S. 1 (1951) 5,6,7,8

United States v. Salerno, 481 U.S. 739 (1987) 6,7

CONSTITUTIONAL PROVISIONS

Eighth Amendment 1,2,5,6,7,8

OTHER SOURCES

United States Supreme Court Rule, Rule 10 9

CITATIONS FOR OPINIONS BELOW

The opinion of the Supreme Judicial Court for the Commonwealth of Massachusetts denying the Petition for rehearing (App. 1), the final judgement, (App. 2) the order denying the Petitioner's request for bail reduction, (App. 3) were not reported.

BASIS FOR JURISDICTION IN THIS COURT

This honorable Court has jurisdiction over this matter as it involves the Eight Amendment to the U.S. Constitution and the Defendant-Appellant's right to be free from excessive bail. The Supreme Judicial Court for the Commonwealth of Massachusetts denied the defendant-appellant's petition for rehearing on January 31, 2008.

CONSTITUTIONAL AND STATUTORY PROVISIONS AT ISSUE

This matter is about the Eighth Amendment to the U.S. Constitution which states:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

STATEMENT OF THE CASE

This case arises out of the arrest of the Petitioner, Alhajj Maliki Almahdi, on August 23, 2006. The Petitioner was arraigned and placed on $15,000.00 cash bail or $150,000.00 surety. After the bail was set, the Petitioner requested a bail review, which was denied in the District Court of Springfield, Massachusetts a week later. A Grand Jury was then convened and the Petitioner was indicted on October 12, 2006. (App. 4-5). Bail was again set at $15,000.00 cash or $150,000.00 surety at the arraignment on October 25, 2006. The Petitioner again requested bail review, which was again denied, on November 14, 2006. The Petitioner then appealed to the Supreme Judicial Court of Massachusetts for relief claiming excessive, unconstitutional bail. The Petition was denied on January 30, 2007 (Greaney, J.) (App. 3). The Petitioner then appealed the Judgement of the single justice to the full Court. The Petitioner's appeal to the full Supreme Judicial Court was dismissed on November 9, 2007. (App. 2). The Petitioner then requested a rehearing and this rehearing was denied on January 31, 2008 (App. 1) making it a

final judgment. The Petitioner is now requesting a Writ of Certiorari to the United States Supreme Court.

STATEMENT OF THE FACTS

The Petitioner, Alhajj Maliki Almahdi (hereinafter "Petitioner"), was arrested on August 23, 2006 for resisting arrest from a Court Officer, threats to a Court Officer and disturbing Court procedure. The following day the Appellant was arraigned and placed under $15,000.00 cash bail or $150,000.00 surety. The Appellant is a retired and disabled correctional officer. He has resided in Springfield, Massachusetts his entire life and is well known to the District and Superior Court in Springfield, Massachusetts, as he has been involved in numerous legal proceedings over the course of the last 40 years. The Appellant has never been convicted of a felony and has never missed a scheduled court appearance to his knowledge.

After the bail was set, Appellant requested a bail review, which was denied a week later. After a Grand Jury was convened, the Appellant was indicted on October 12, 2006 (App. 4-5). At the arraignment on October 25, 2006 bail was again set at $15,000.00 cash or

$150,000.00 surety without prejudice. The Appellant again requested bail review, which was again denied on November 14, 2006. The Appellant then Petitioned the Supreme Judicial Court of Massachusetts for relief claiming excessive, unconstitutional bail. The Petition was denied on January 30, 2007 (Greaney, J.) (App. 3). The Appellant then appealed the judgment of the single justice to the full court. The Appellant was held in jail from August 23, 2006 through May 3, 2007 at which time he was finally released on his own personal recognizance. The charges against the Petitioner were later dismissed by the Court.

The Appellant's appeal to the full Judicial Court was dismissed on November 9, 2007. The Appellant then requested a rehearing and this rehearing was denied on January 31, 2008 (App. 1), making it a final judgment. The Petitioner now petitions for a writ of certiorari to the United States Supreme Court.

REASONS FOR GRANTING CERTIORARI

The Massachusetts Supreme Judicial Court, a state court of last resort, has decided an important question of federal law in a way that conflicts with the United States Supreme Court.

The Eighth Amendment of our Constitution provides:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The reason for this is that defendants who are not released on bail have greater difficulty preparing their defense. Excessive bail also has the effect of punishing the defendant with imprisonment for the duration up until the time of his trial and acquittal. For this reason, decisions and review regarding bail should not be made lightly. Stack v. Boyle, 342 U.S. 1, 4-6, (1951). Bail should be extremely high, and sometimes denied if a defendant is being charged with an extremely serious offense and poses either a flight risk or serious potential danger to the community. However, notwithstanding that situation, in the great majority of criminal matters bail should be available and affordable. In the instant case, the bail was set at $15,000.00 cash or $150,000.00 surety.

This bail was set after the Appellant was disruptive in the Courtroom. These were fairly minor criminal charges. As the Appellant was not a danger to the community and did not pose a risk of flight, it is clear that the bail was excessive. Bail is "excessive" in violation of the Eighth Amendment when it is set at a figure higher than an amount reasonably calculated to ensure the claimed governmental interest. Stack v. Boyle, 342 U.S. 1, 4 through 6 (1951). If the Commonwealth's only claimed interest was to guarantee that the Appellant would stand trial and submit to a sentence if found guilty, then the bail should have been set at a sum that was designed to ensure that goal and no more. United States v. Salerno, 481 U.S. at 754.

As a result of the excessive bail in violation of the Eighth Amendment, the Appellant was incarcerated from August 23, 2006 through May 7, 2007, a period of 255 days. Ultimately, all the charges against the Appellant were dismissed by the Court.

LEGAL ARGUMENT

The Massachusetts Supreme Judicial Court, a state court of last resort, has decided an important question of federal law in a way that conflicts with the United States Supreme Court.

The Eighth Amendment of our Constitution provides:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The reason for this is that defendants who are not released on bail have greater difficulty preparing their defense. Excessive bail also has the effect of punishing the defendant with imprisonment for the duration up until the time of his trial and acquittal. For this reason, decisions and review regarding bail should not be made lightly. Stack v. Boyle, 342 U.S. 1, 4-6, (1951). Bail should be extremely high, and sometimes denied if a defendant is being charged with an extremely serious offense and poses either a flight risk or serious potential danger to the community. However, notwithstanding that situation, in the great majority of criminal matters bail should be available and affordable. In the instant case,

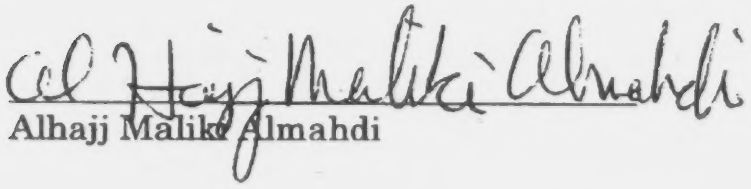
the bail was set at $15,000.00 cash or $150,000.00 surety. This bail was set after the Appellant was disruptive in the Courtroom. These were fairly minor criminal charges. As the Appellant was not a danger to the community and did not pose a risk of flight, it is clear that the bail was excessive. Bail is "excessive" in violation of the Eighth Amendment when it is set at a figure higher than an amount reasonably calculated to ensure the claimed governmental interest. Stack v. Boyle, 342 U.S. 1, 4 through 6 (1951). If the Commonwealth's only claimed interest was to guarantee that the Appellant would stand trial and submit to a sentence if found guilty, then the bail should have been set at a sum that was designed to ensure that goal and no more. United States v. Salerno, 481 U.S. at 754.

As a result of the excessive bail in violation of the Eighth Amendment, the Appellant was incarcerated from August 23, 2006 through May 7, 2007, a period of 255 days. Ultimately, all the charges against the Appellant were dismissed by the Court.

CONCLUSION

For all the foregoing reasons, the Petitioner submits that the decision of the Supreme Judicial Court of Massachusetts is in conflict with the decision of the United States Supreme Court, constitutes a departure from the accepted and usual course of judicial proceedings, and involves important questions of federal law that should be settled by this Court. Supreme Court Rule 10. Accordingly, Petitioner requests that this Court grant the petition for a writ of certiorari.

Respectfully submitted,
Alhajj Maliki Almahdi, Pro Se



Alhajj Maliki Almahdi

Appendix 1

The Commonwealth of Massachusetts
Supreme Judicial Court
For Suffolk County
John Adams Courthouse
One Pemberton Square, Suite 1300
Boston, Massachusetts 02108-1707
www.sjccountyclerk.com

January 30, 2007

Al Hajj Maliki Almahdi
629 Randall Road
Ludlow, MA 01056

RE: No. SJ-2007-0014

COMMONWEALTH v. AL HAJJ MALIKI ALMAHDI

Hampden Superior Court
No. 2006-1250

NOTICE OF DOCKET ENTRY

You are hereby notified that on January 30, 2007, the following was entered on the docket of the above referenced case:

JUDGMENT: denying relief under c. 211, s.3 without a hearing. (Greaney, J.)

Maura S. Doyle,
Clerk

To: Al Hajj Maliki Almahdi
Jane Davidson Montori, Assistant District Attorney
Richard Morse, Assistant District Attorney
Atty. Vincent A. Bongiorni

Appendix 2

NOTICE: All slip opinions and orders are subject to formal revision and are superseded by the advance sheets and bound volumes of the Official Reports. If you find a typographical error or other formal error, please notify the Reporter of Decisions, Supreme Judicial Court, John Adams Courthouse, Pemberton Square, Suite 2500, Boston, MA 02108-1750; (617) 557-1030; SJCReporter @sjc.state.ma.us

SJC-09958

AL HAJJ MALIKI ALMAHDI vs. COMMONWEALTH.

November 9, 2007

Moot Question. Bail.

Al Hajj Maliki Almahdi (defendant) appeals from a judgment of the county court denying his petition under G. L. c. 211, § 3, in which he sought bail review. The Commonwealth has moved to dismiss the appeal as moot. We agree with the Commonwealth.

After the single justice denied relief, the defendant was released on personal recognizance. The charges against him were subsequently disposed of, one by a nolle prosequi and the other by dismissal after a continuance without a finding. G. L. c. 276, § 87. This moots his claim for bail review. See Allen v. Commonwealth, 449 Mass. 1020, 1020 (2007), citing LaChance v. Commonwealth, 437 Mass. 1013 (2002). To the extent that the defendant claims he is entitled to compensation for time spent in confinement, that claim is not properly before us and we express no view on its merits. A proper forum for such a claim would be a civil action commenced in the trial court.

Appeal dismissed.

The case was submitted on briefs.

Al Hajj Maliki Almahdi, pro se.

Jane Davidson Montori, Assistant District Attorney, for the Commonwealth.

Appendix 3

Supreme Judicial Court for the Commonwealth of Massachusetts
John Adams Courthouse
One Pemberton Square, Suite 1300
Boston, Massachusetts 02108-1707
Telephone 617-557-1020, Fax 617-557-1145

Al Hajj Maliki Almahdi
228 Locust Street
Apt. 8
Springfield, MA 01108

RE: No. SJ-09958

AL HAJJ MALIKI ALMAHDI
vs.
COMMONWEALTH

NOTICE OF DENIAL OF PETITION FOR REHEARING

The Petition for Rehearing filed in the above captioned case has been considered by the Court and is denied.

Susan Mellen, Clerk

Dated: January 31, 2008

To: Jane Davidson Montori, A.D.A.
Richard Morse, A.D.A.
Al Hajj Maliki Almahdi
S.J.C. for Suffolk County

Appendix 4

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS **SUPERIOR COURT**
INDICTMENT NO: 06-1250-1

COMMONWEALTH
VS.
ALHAJJMALIKI ALMAHDI

INDICTMENT
DISRUPTION OF COURT PROCEEDINGS
GENERAL LAWS CHAPTER 268, SECTION 13C

At the Superior Court, begun and holden at Springfield, within and for the County of Hampden, on the first Tuesday of October 2006. The GRAND JURORS for the Commonwealth of Massachusetts on their oath present that:

ALHAJJMALIKI ALMAHDI

defendant herein, of Springfield in the County of Hampden, on or about August 23, 2006, at SPRINGFIELD in the County of Hampden, did cause or actively participate in the willful disruption of proceedings of any court of the commonwealth, in violation of General Laws chapter 268, section 13C.

A TRUE BILL

Foreman of the Grand Jury — Asst District Attorney

RETURN

HAMPDEN, ss On this 16th day of Oct. , 2006, this indictment was returned and presented to said Superior Court by the Grand Jury, and ordered to be filed and filed.

ATTEST: Cheryl A. Causbroom Assistant Clerk

Appendix 5

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS **SUPERIOR COURT**
INDICTMENT NO: 06-1250-2

COMMONWEALTH
VS.
ALHAJJMALIKI ALMAHDI

INDICTMENT
ASSAULT & BATTERY
GENERAL LAWS CHAPTER 265, SECTION 13A

At the Superior Court, begun and holden at Springfield, within and for the County of Hampden, on the first Tuesday of October 2006. The GRAND JURORS for the Commonwealth of Massachusetts on their oath present that:

ALHAJJMALIKI ALMAHDI

defendant herein, of Springfield in the County of Hampden, on or about August 23, 2006, at SPRINGFIELD in the County of Hampden, did assault and beat Bruce Mullins.

A TRUE BILL

Foreman of the Grand Jury

Asst District Attorney

RETURN

HAMPDEN, ss On this 4th day of Oct. , 2006, this indictment was returned and presented to said Superior Court by the Grand Jury, and ordered to be filed and filed.

ATTEST: Assistant Clerk

08-13

Supreme Court, U.S.
FILED
OCT 30 2008
OFFICE OF THE CLERK

In The
SUPREME COURT OF THE UNITED STATES

ALHAJJ MALIKI ALMAHDI

Petitioner,

V.

COMMONWEALTH OF MASSACHUSETTS,
CITY OF SPRINGFIELD, DISTRICT ATTORNEY

Respondents.

On Petition for Writ of Certiorari
To The United States Court of Appeals
No. 08-13

MOTION FOR REHEARING AND RECONSIDERATION

Alhajj Maliki Almahdi, Pro Se

228 Locust Street, Apartment 8

Springfield, MA 01108

Pro Se for Petitioner,
Alhajj Maliki Almahdi

PETITION FOR REHEARING

Pursuant to Rule 44(2) of the Supreme Court Rules, the Petitioner, Alhajj Maliki Almahdi, hereby moves for reconsideration of the Supreme Court's Order dated October 6, 2008 denying his Petition for a Writ of Certiorari (See A-1).

A. BRIEF HISTORY OF THE CASE

The Petitioner, Alhajj Maliki Almahdi (hereinafter "Petitioner"), was arrested on August 23, 2006 for resisting arrest from a Court Officer, threats to a Court Officer and disturbing Court procedure. The following day the Appellant was arraigned and

placed under a $15,000.00 cash bail or $150,000.00 surety. The Appellant is a retired and disabled correctional officer. He has resided in Springfield, Massachusetts his entire life and is well known to the District and Superior Court in Springfield, Massachusetts, as he has been involved in numerous legal proceedings over the course of the last 40 years. The Appellant has never been convicted of a felony and has never missed a scheduled court appearance to his knowledge.

After the bail was set, Appellant requested a bail review, which was denied a week later. After a Grand Jury was convened, the Appellant was indicted

on October 12, 2006 (App. 4 – 5). At the arraignment on October 25, 2006 bail was again set at $15,000.00 cash or $150,000.00 surety without prejudice. The Appellant again requested bail review, which was again denied on November 14, 2006. The Appellant then Petitioned the Supreme Judicial Court of Massachusetts for relief claiming excessive, unconstitutional bail. The Petition was denied on January 30, 2007 (Greaney, J.) (App. 3). The Appellant then appealed the judgment of the single justice to the full court. The Appellant was held in jail from August 23, 2006 through May 3, 2007 at which time he was finally released on his own

personal recognizance. The charges against the Petitioner were later dismissed by the Court.

The Appellant's appeal to the full Supreme Judicial Court was dismissed on November 9, 2007. The Appellant then requested a rehearing and this rehearing was denied on January 31, 2008 (App. 1), making it a final judgment. The Petitioner then petitioned for a writ of certiorari to the United States Supreme Court, which was denied on October 6, 2008.

B. REASONS FOR REHEARING

This was a case of excessive bail, which violated the Eighth Amendment of the United States Constitution. The Petitioner, a black muslim male,

was charged with assault and battery illegally by the Springfield District Attorney. The four Court Officers that restrained the Petitioner filled out signed statements and incident reports and there was no mention of assault and battery by any of the Court Officers in their statements (see A3 – A6). Later one of the Court Officers, Bruce Mullen, perjured himself when he went before the Grand Jury and changed his original statement and claimed that Petitioner had assaulted him (see witness statements at A3 – A6; Grand Jury Testimony at A7 – A26). There was a conflict between Bruce Mullen's signed statement and his Grand Jury testimony. This made him an

incompetent witness and the District Attorney knew that his case against Petitioner had no merit. Petitioner's bail was set at $15,000.00 cash or $150,000.00 surety. Petitioner tried to have the bail reduced on several occasions and then appealed the denials all the way up to the Massachusetts Supreme Judicial Court. As a result of the excessive and unreasonable bail, Petitioner spent two hundred and fifty-five days incarcerated in the County Jail and 180 days with an ankle bracelet. Ultimately, these cases were dismissed as they had no merit. Petitioner was denied bail reduction three times for what was tantamount to three misdemeanors, namely resisting

arrest, threats to Court Officers and disturbing the peace. The Petitioner filed for a bail injunction with the Supreme Judicial Court of Massachusetts and this was also denied. He then appealed that decision before the full Court. That was also denied making the claim a final decision. That is why Petitioner filed this case in the Supreme Court for violation of his Eighth Amendment right to reasonable bail.

Bail was set in Petitioner's case at $15,000.00 or $150,000.00 surety was unreasonable. It was cruel and unusual. This case does have merit. The U.S. Supreme Court is a last resort for injustices such as this. I respectfully request that the U.S. Supreme

Court intervene or Petitioner will have no remedy for the violation of his Eighth Amendment right by the Commonwealth of Massachusetts.

The Petitioner was incarcerated for two hundred and fifty days and had an ankle bracelet applied on his leg for six months. Yet, the Commonwealth of Massachusetts dismissed the charges and nolle prosecuted the other charges. A citizen is suppose to be innocent until he is found guilty, however, it does not work like that in all cases. I am not Dred Scott, when you ruled he was three-fifth's of a man. I am Alhajj Maliki Almahdi and I

demand due process of law. Kindly let me have my day in court.

The bail set in my case was excessive and violated my due process rights for the following reasons.

1. I have no felony convictions;

2. I had appeared in Court in Springfield, MA hundreds of times with no defaults on my record;

3. My request for bail reductions were denied all the way up to the Supreme Court;

4. Massachusetts Supreme Judicial Court took a very long time in denying my request for relief from excessive bail;

5. The Supreme Judicial Court's denial of my request for reconsideration became a final judgment;

6. I petitioned for a writ of certiorari, which was denied by the U.S. Supreme Court;

7. The U.S. Supreme Court is the only court that can correct this injustice and make it right as the highest Court of the State of Massachusetts has failed to protect my Eighth Amendment rights;

8. My Eighth Amendment rights were violated by excessive bail and this was cruel and unusual punishment as I was incarcerated for two

hundred and fifty-five days before the flimsy case was thrown out of court;

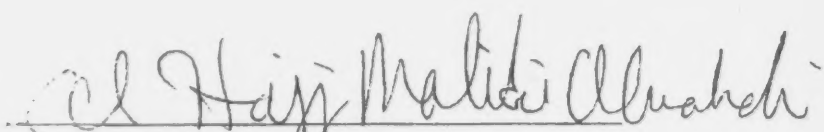
9. The highest Court in the State of Massachusetts has not protected my Eighth Amendment right;

10. How can this be corrected and remedied; and

11. The U.S. Supreme Court is the highest court in the land. This court has the ability to eradicate all the wrong that has been done to me and people like me by the Commonwealth of Massachusetts' repressive criminal justice system.

I respectfully request that you grant my motion for rehearing and pray that you do the right thing in respect this Motion.

Respectfully submitted,
Alhajj Maliki Almahdi, Pro Se



Alhajj Maliki Almahdi
La-I-La-Ha-Ill-Allah
There is Only One God. Allah
(The Seal of the Prophets)

In the name of Allah,
Most Gracious,
Most Merciful,

Exhibits

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A-1

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

October 6, 2008

Mr. Alhajj Maliki Almahdi
228 Locust Street, Apt. 8
Springfield, MA 01108

Re: Alhajj Maliki Almahdi
v. Massachusetts
No. 08-13

Dear Mr. Almahdi:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

William K. Suter

William K. Suter, Clerk

.RIMINAL COMPLAINT PROBATION COPY	DOCKET NUMBER 0623CR008434	PAGE 1 of 1	District Court Department

NT NAME & ADDRESS	COURT NAME & ADDRESS
MALIKI ALMAHDI NTRAL STREET, APT 44 FIELD, MA 01105	SPRINGFIELD DISTRICT COURT 50 STATE STREET SPRINGFIELD, MA 01103-2002 0-

NT DOB	OFFENSE DATE	DATE COMPLAINT ISSUED	NO. OF COUNTS	FIRST SCHEDULED EVENT
51	08/23/2006	08/23/2006	5	ARRAIGNMENT

EPARTMENT	POLICE INCIDENT NUMBER	FIRST SCHEDULED EVENT DATE & TIME
		08/23/2006 02:00 PM

ADDRESS	OFFENSE CITY / TOWN	ROOM / SESSION
FIELD	SPRINGFIELD	1st Session

The undersigned complainant, on behalf of the Commonwealth, on oath complains that on the date(s) indicated below the nt committed the offense(s) listed below and on any attached pages.

CODE	DESCRIPTION

268/32B **RESIST ARREST c268 §32B**

3/2006 did knowingly prevent or attempt to prevent a police officer, as defined in G.L. c. 268, §32B©), who was acting under color of r official authority, from effecting an arrest, by: (1) using or threatening to use physical force or violence against the police officer or or (2) using some other means which created a substantial risk of causing bodily injury to such police officer or another, in violation . 268, §32B. (PENALTY: jail or house of correction for not more than 2½ years; or not more than $500 fine; or both.)

272/40/C **PUBLIC ASSEMBLY, DISTURB c272 §40**

3/2008 did wilfully interrupt or disturb an assembly of people met for a lawful purpose, in violation of c.272, §40. (PENALTY: not an 1 month; or not more than $50 fine.)

275/2 **THREAT TO COMMIT CRIME c275 §2** Alex Sierra - LOV + Police

3/2006 did threaten to commit a crime against the person or property of another, to wit: TO COMMIT BODILY HARM, in violation of 75, §2. (PENALTY from §4: imprisonment not more than 6 months; or not more than $100 fine; or recognizance to keep the peace 6 months.)

275/2 **THREAT TO COMMIT CRIME c275 §2** 2 count officer Loughran

3/2006 did threaten to commit a crime against the person or property of another, to wit: TO COMMIT BODILY HARM, in violation of 75, §2. (PENALTY from §4: imprisonment not more than 6 months; or not more than $100 fine; or recognizance to keep the peace 6 months.)

275/2 **THREAT TO COMMIT CRIME c275 §2** 3 count officer Mullin

3/2006 did threaten to commit a crime against the person or property of another, to wit: TO COMMIT BODILY HARM, in violation of 75, §2. (PENALTY from §4: imprisonment not more than 6 months; or not more than $100 fine; or recognizance to keep the peace 6 months.)

hibit-G

[redacted] [redacted]

E OF COMPLAINANT	SWORN TO BEFORE CLERK-MAGISTRATE/ASST CLERK/DEP. ASST. CLERK	DATE
	X	
OMPLAINANT	CLERK-MAGISTRATE/ASST CLERK	DATE
	[redacted] X	

rinted 8/23/2006 * 45pm

APP. 28

A3

Massachusetts Trial Court - Security Department
Incident Report

MR Springfield District Court | 2/3 | 8-23-06
Name of Court | Incident Classification | Date of Report

(Please print or type all responses) *See reverse side for instructions

DATE: 8-23-06 TIME: 9 40 ☒ a.m. ☐ p.m.

LOCATION: Court Rm #1 District Court

PERSONS INVOLVED: AL Hajmaliki AL mahdi C.O. Alex Segarra, C.O. MARTY Loughman, C.O. II Bruce Mullins

NARRATIVE: Tell exactly what happened and exactly how it happened using a clear, concise narrative.

When I arrived in the Court Rm this Morning I Seen an individual, Known to me as Malik Almahdi IN the Court Rm.

Later on that morning MR Alahdi's Case was called. MR Almahdi became loud and was asked to quiet down by the Judge. MR Almahdi Cont. to be loud and turn to the Court Officers and Stated What the FUCK are you guys looking to DO. At this Point MR Almahdi be came combative and Officer Segarra, MYSelf and Officer Loughman were forced to subdue MR Almahdi who was swinging and Spitting. MR Almahdi was taken to lock-up where he Stated "This is not over I'm going to finish this" and was calling people Assholes

Prepared By: BRUCE L. MULLINS C.O. II (Print) Bruce L. Mullins C.O. (Signature)

Reviewed By: VALDEMAR SANTOS (Print) (Signature)

Page __ of __ RADS: ____

Exhibit-H Form SD-1

(7)

App. 30

A-4

Massachusetts Trial Court - Security Department
Incident Report

SpFld District — Name of Court
3+2 — Incident Classification
August 23, 2006 — Date of Report

(Please print or type all responses) *See reverse side for instructions

DATE: 8-23-06 TIME: 9:40 a.m. p.m.

LOCATION: Courtroom #2 SpFld District Court

PERSONS INVOLVED: ALHAJMALIK ALMAHDI, OFFICERS LAUGHMAN-MILLEN, HOWARD, SIERRA AND ASST CHIEF SANTOS

NARRATIVE: Tell exactly **what** happened and exactly **how** it happened using a clear, concise narrative.

ON WEDNESDAY AUGUST 23, 2006 AT 9:40 AM MR ALHAJMALIK ALMAHDI WAS TOLD BY JUDGE TEHAN TO REMAIN QUIET MR ALHAJMALIK SQUARE JUDGE TEHAN ORDERED MR ALHAJJMALIK TAKEN INTO CUSTODY. MR. ALHAJJMALIK RESISTED AND BECAME COMBATIVE. OFFICER SIERRA TOOK MR ALHAJJMALIK TO THE GROUND WE HAND CUFFED MR ALHAJJMALIK AND TOOK HIM DOWN STAIRS TO LOCK-UP. IN DISTRICT COURT LOCK UP MR. ALHAJJMALIK THREATEN US, HE SAID "THIS IS NOT OVER, I'M GONNA FINISH THIS"

Prepared By: MARTIN D. LAUGHMAN (Print) (Signature)

Reviewed By: /ALDEMAR A SANTOS (Print) (Signature)

Page __ of __

Exhibit-I

RADS: ____

Form SD-1

(10)

App. 29

A-5

Massachusetts Trial Court - Security Department
Incident Report

Springfield D.C. (Name of Court) | 213 (Incident Classification) | August 23 06 (Date of Report)

(Please print or type all responses) *See reverse side for instructions

DATE: August 23. 06 TIME: 940. ☒ a.m. ☐ p.m.

LOCATION: Court-house # 2

PERSONS INVOLVED: - Almahadi. Al Hmaliki (DOB 8-9-51) c/o Sierra c/o Mullins c/o Loughman c/o Hamad A/C Santos.

NARRATIVE: Tell exactly **what** happened and exactly **how** it happened using a clear, concise narrative.

On the above date and time I c/o Sierra was called by c/o Loughman to assist him on a possible problem in courtroom # 2 with an individual by the name of Almahadi Almaliki Mr Almaliki was before the Judge and was very disruptive, At this time Judge William Teahan ordered mr. Almaliki into custody with At this time mr Almaliki turned around and faced my self c/o Sierra and stated "what the Fuck are you going do" At this time with minimum amount of force Mr. Almaliki was taken down to the Ground. and After a brief Struggle with the help of c/o Loughman and c/o Mullins he was cuffed. He was taken to lock up. In the lock up area Mr. Almaliki was making Threats towards my self by stating "This is not done I'm going to Fuck you up is coming". No Further incident

Prepared By: Clevadare Sierra (Print) (Signature)

Reviewed By: VALDEMAR R SANTOS (Print) (Signature)

Page __ of __

RADS ____

Form SD-1

Exhibit-J

(8)

Massachusetts Trial Court - Security Department
Incident Report App. 31

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SPRINGFIELD DISTRICT | 243 | 8-23-06
Name of Court | Incident Classification | Date of Report

(Please print or type all responses) *See reverse side for instructions

DATE: 8-23-06 TIME: 9:45 ☒ a.m. ☐ p.m.

LOCATION: DIST Ct #2

PERSONS INVOLVED: ALHMALIKI ALMAHADI C.O. MULLINS C.O. SIERRA C.O. LOUGHMAN A.C. SANTOS

NARRATIVE: Tell exactly what happened and exactly how it happened using a clear, concise narrative.

ON THE ABOVE TIME AND DATE I WAS IN CT # 2 DISTRICT TO MONITOR MR ALHMALIKI ALMAHDI. MR ALHMALIKI HAS BEEN A CONSTANT PROBLEM IN ALL THE COURT DIVISIONS TENENT THE SPRINGFIELD COMPLEX. ON THIS DAY MR ALHMALIKI WAS ORDERED BY JUDGE TEAHAN TO KEEP QUIET AND LISTEN. MR ALHMALIKI KEPT TALKING. JUDGE TEAHAN HELD HIM IN CONTEMPT WHEN TRYING TO CUFF MR ALHMALIKI HE BECAME COMBATIVE AND WAS TAKEN TO THE GROUND BY C.O. SIERRA C.O. MULLINS + C.O. LOUGHMAN MR ALHMALIKI WAS CUFFED AND BROUGHT TO LOCK-UP. UPON BEING PLACED IN THE CELL MR ALHMALIKI DID STATE "YOU GUYS STARTED THIS AND I AM GOING TO FINISH IT" MR ALHMALIKI IS BEING CHARGED WITH DISORDERLY CONDUCT DISRUPTING COURT PROCEEDINGS AND THREAT TO COMMIT A CRIME.

Prepared By: VALDEMAR A SANTOS (Print) (Signature)

Reviewed By: Timothy J. DiGravio (Print) (Signature)

Page ___ of ___

RADS: ____

Form SD-1

Exhibit K

9

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss. GRAND JURY
06-08-049461-1

COMMONWEALTH OF MASSACHUSETTS

VS

AL HAJJ MALIKI ALMAHDI

HEARING HELD BEFORE THE HAMPDEN COUNTY GRAND JURY ON OCTOBER 12, 2006.

APPEARANCES:

MARY BETH OGULEWICZ, ESQ., Assistant District Attorney.

LINDA CLAIN, GRAND JURY REPORTER
HAMPDEN COUNTY DISTRICT ATTORNEY'S OFFICE
50 STATE STREET, SPRINGFIELD, MA 01103
(413) 452-1193

I N D E X

WITNESS	PAGE
Court Officer Bruce L. Mullins	3

* * * * *

E X H I B I T S

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* * * * *

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The witness, Court Officer Bruce L. Mullins, having been first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MS. OGULEWICZ

Q. Can you, please, state your full name and spell your last name?

A. My name is Court Officer Bruce L. Mullins; that's M-U-L-L-I-N-S.

Q. And, where are you employed, sir?

A. Trial Court Massachusetts here in Springfield.

Q. What is your position?

A. Court Officer II.

Q. What are your duties as a Court Officer?

A. To keep peace in the courtroom, transporting prisoners from lockup to the courtroom, follow the direction of the Judge, and -- basically it.

Q. How long have you been in that position?

A. Little over twenty-three and a half years.

Q. Drawing your attention to August 23rd, of 2006 were you working that morning?

A. Yes, ma'am, I was.

Q. And, were you working in Courtroom 2 in the District Court in Hampden County?

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A. Yes, ma'am, I was.

Q. Drawing your attention to specifically the time period of 9:40 in the morning were you present in Courtroom 2 in the District Court?

A. Yes, I was.

Q. And, do you have with you today a report, which summarizes an incident which you witnessed?

A. I do.

Q. Could you, please, read your report?

A. An incident took place in Courtroom 2 District Court, 9:40 a.m.

When I arrived in Court this morning I saw an individual known to me as Malik Almahdi in the courtroom.

Later on that morning Mr. Almahdi's case was called. Mr. Almahdi became loud and was asked to quiet down by the Judge. Mr. Almahdi continued to use loud -- be loud and to turn -- to turn to the Court Officers and stated, What the fuck are you guys going to do? At this the point Mr. Almahdi became combative and Officer Searra, myself, and Officer Loughman were forced to subdue Mr. Almahdi, who was swinging and swearing. Mr. Almahdi was taken to the lockup where he stated,

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This is not over, I'm going to finish this. And was calling people assholes.

Q. And, is there another report, which was filed by a fellow Court Officer, who also witnessed this?

A. There is.

Q. Would you, please, read that for us?

A. This report is same courtroom, same time, by Court Officer Martin Loughman, that's L-O-U-G-H-M-A-N.

On Wednesday, August 23rd, at 9:40 a.m., a Mr. Almahdi -- excuse me -- Al Hajj Maliki Almahdi was told by Judge Teahan to remain quiet. Mr. Almahdi swore. Judge Teahan ordered Mr. Almahdi taken into custody. Mr. Almahdi resisted and became combative. Officer Searra took Mr. Almahdi to the ground, where we handcuffed him and took him downstairs to the lockup. In the District Court lockup Mr. Almahdi threatened us. He said, this was not over, I'm gonna finish this.

Q. Are you aware if Mr. Almahdi filed an affidavit about the sequence of events on that date?

A. I am.

MS. OGULEWICZ: May I have this marked as Exhibit number 1, please?

(Grand Jury Exhibit 1: Marked)

Q. Showing you Grand Jury Exhibit number 1, do you recognize this as a handwritten affidavit of Mr. Al Hajj Maliki Almahdi?

A. I do.

Q. And, can you read the contents of that to the members of the Grand Jury?

A. I can try.

I, Al Hajj Maliki Almahdi, depose and say that I am fifty-five years old and I am not on drugs or medication. Also that I am about to say is the truth -- what I am about to say is the truth.

I came to Court to 8/23/06, to have my motion to dismiss an ongoing case -- looks like -- about three years old -- I think that says. While trying to tell Judge Teahan my part of -- my point of view, he told the Court Officers to take me into custody for a few hours on a contempt. I'm not sure what that says. Next thing is: I turned around and was assaulted by -- I think that says -- eight Court Officers. I was kicked, slapped, and forcibly thrown to the ground without resisting. I came to court of my own free will and became a hostage. My bail is -- something --

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unconstitutional.

I intend to press charges on the Officers for defamation of my character by means of libel, slander. Under state statute public officials are responsible for their own -- something or other -- they are not above the law.

Continued.

Signed under the pains and penalty of Perjury.

Al Hajj Maliki Almahdi.

Q. Thank you. Can you tell us Courtroom 2, what floor of the Hall of Justice is that located on?

A. As you come in the main door it's exactly straight ahead.

Q. And, is that one of the largest courtrooms that we have in the Hall of Justice?

A. Excuse me?

Q. Is that one of the largest courtrooms that we have in the Hall of Justice?

A. It is, with the exception of probably Courtroom 1.

Q. And, on the morning of August 23, of 2006, could you give us an estimate of how many persons were

located inside of that courtroom, including attorneys transacting business as well as public members who were in the audience?

A. The courtroom was full, it was full to capacity.

Q. And if you had to give an estimate of how many people fill that courtroom.

A. To be truthful, ma'am, I really don't know how many people can fit in that courtroom, I just know there was a lot of them, and they'd be like straight ahead, like here, come this way, and the attorneys would be over here. Well, all the attorney's seats were filled and every seat in the courtroom was filled.

Q. Do you have an estimate of how many rows of benches for the public members of the audience, sir, is there more than five rows?

A. Twelve to fourteen on each side, maybe, maybe sixteen.

Q. There are twelve to fourteen rows of benches.

A. Rows of benches.

Q. And then if you had to give the Grand Jury an estimate of how long those rows of benches are?

A. Coming from that wall to that wall long, maybe a little bit longer too.

Q. And, if you had to give us a rough estimate of the distance that you just pointed to, would you say probably around thirty-five to forty feet?

A. Roughly.

Q. So you have twelve to fourteen rows of benches on the right and the left, and the right and the left both are approximately thirty-five to forty feet long.

A. Be "approx", yes.

Q. And, that entire area is filled with members of the public, who would be seated, and then the attorney's area, which would be where the jury would sit was filled -- those seats were filled as well.

A. Yes, ma'am.

Q. So there are at least fourteen seats in that area, is that correct?

A. Yes, ma'am.

Q. And, was Judge Teahan -- you mentioned -- was he presiding over the session?

A. Judge Teahan was presiding over the session.

Q. Was he conducting the normal course of

business in that courtroom on that day?

A. Yes, ma'am, he was.

Q. And, when Mr. Almahdi came into the courtroom can you describe where you were located in relation to him?

A. I was standing at the front of the courtroom being one -- being an Officer I'm usually at the front of the courtroom, and Mr. Almahdi came in to the courtroom prior to the Judge coming out and started being loud. He was asked to quiet down and --

Q. When he started to be loud initially was his case being called or was he in the course of addressing the Judge for his case at that point?

A. Initially he was just in the courtroom, the Court hadn't started yet, the Judge had not come out yet. Soon after that his case was called because he was being a little loud.

Q. Would you say that he was speaking out of turn, it wasn't his matter that he was --

A. He was speaking out of turn.

Q. And, how would you describe the volume of his voice at that point in time?

A. Mr. Almahdi has a voice similar to mine, a

little bit louder, and I have a loud voice. So deep and loud.

Q. And, when he was making these utterances when he came into the courtroom and the session was under way in terms of conducting business, how would you describe the tone of his voice; was it conversational or was it louder than that?

A. If I had to describe it, I would call it arrogant.

Q. And, as he was speaking out of turn, did you notice whether anybody in the audience or within the courtroom, their attention was being drawn to his personal actions?

A. Because he was speaking loudly people were turning to look at him and he was sitting in the front row, so people were looking at him every time he would say something out loud.

Q. What happened after he started to speak out loud?

A. They decided to call his case to see if we could get him out of the courtroom so we could conduct business as usual. They called his case, he came up, he started speaking with the Judge. The Judge asked him to

be quiet several times, Mr. Almahdi started swearing, he started becoming really loud, and just really wasn't listening to what the Judge had to say. The Judge at that point ordered the Court Officers to take Mr. Almahdi into custody for contempt.

Q. When he started to speak to the Judge, why was the Judge telling him to be quiet; what was he doing?

A. Because he couldn't get a word in edgewise.

Q. And, do you recall what Mr. Almahdi was saying --

A. I do not recall exactly what he was saying. I just recall that he was being loud and he was using profanity.

Q. And at this point time was the courtroom still filled --

A. The courtroom was still filled with people.

Q. -- with members of the audience as well as the attorneys?

A. Yes, ma'am.

Q. And, how were -- that general area -- how was that disrupted by Mr. Almahdi's behavior?

A. Well, I mean everybody in the courtroom was

looking at him, everybody in the courtroom was, you know, paying attention to him, and, you know, at that point we -- like we have no talking in the courtroom, people started talking, because like, you know, you know pointing and --

Q. After Judge Teahan ordered him to be taken into custody, could you tell us what happened next?

A. Mr. Almahdi, I was standing right directly behind him, I grabbed his left arm, put it behind his back, and Mr. Almahdi swung around and hit me with his elbow. At that point we took him down to the ground and after a few minutes -- it took us a while, we ended up handcuffing him. Like I said Mr. Almahdi is a very large gentleman, about six three, about 300 pounds, and it took us a while to handcuff him. It was like four Court Officers, not eight.

Q. During the course of taking him into custody what happened to Court proceedings that should have been being conducted?

A. We had to call a recess and ask the public, the general public to please exit the courtroom, since it was like a scene right in front everybody, we don't want to have it right in front of everybody, so a couple

of Court Officers had people leave the courtroom. We emptied it out, and we took Mr. Almahdi out, almost had to carry him down to the lockup.

Q. How did you actually conduct the clearing of the courtroom?

A. One Court Officer -- while the other Court Officers were struggling with Mr. Almahdi, one Court Officer will go to the back and say, please, all rise and ask everybody to please exit the courtroom until further notice.

Q. How long -- could you give us an estimate of how many minutes it would take to clear the courtroom of that number of people who were present?

A. That many people it would take roughly about three or four minutes; get them moving pretty fast.

Q. You stated earlier that as you proceeded to take Mr. Almahdi's hand and put it behind his back in order to cuff him, he elbowed you, is that correct?

A. Right, he swung around.

Q. When he swung his arm around and elbowed you what part of your body --

A. Right about here.

Q. And, for the record you're pointing to

your --

A. My shoulder --

Q. Upper left shoulder.

A. My left shoulder.

Q. So his elbow came around and he elbowed you in your upper left hand shoulder, is that correct?

A. Yes, ma'am, he stands about that much higher than me.

Q. How tall are you?

A. Six one.

Q. And he is taller than you.

A. Yes, ma'am.

Q. What is your weight? Generally.

A. 220, 225 pounds.

Q. And, you testified -- What would you give an estimate of Mr. Almahdi's weight?

A. Roughly about 300, but it could go anywhere from -- he could actually be another hundred pounds more than I am, so he'd be close to 325; 300 to 325.

Q. When he struck your in the shoulder what did you do?

A. Well, I went to back and then like the Court Officers just converged on him and just took him down.

Q. And when you say take him down, where was he placed?

A. On the ground, basically on his stomach, at which point he was kicking and flailing. And I guess like we grabbed an arm, I grabbed an arm, and somebody else grabbed an arm, and we were literally sitting on him to keep him still.

Q. And, were you able to handcuff him while he was in the court?

A. It took a while, but yes.

Q. Approximately how long did it take before you were able to actually place handcuffs on him?

A. The courtroom had cleared out and we were still struggling with him, so I'd say it took three to four minutes to get everybody out, maybe five to six minutes to get Mr. Almahdi under some type of control.

Q. And, when Judge Teahan placed him under contempt and asked you to place him under arrest were you acting under his order in terms of the actions that you all took to handcuff him?

A. Yes, ma'am.

Q. And, after he was handcuffed, how were you able to remove him from the courtroom?

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A. Like two or three on each side, just lift him up and carry him down, because he refused to walk at that point.

Q. After you were able to remove him from the courtroom, do you know what happened next with regard to the courtroom proceedings; were they able to resume?

A. The Court proceedings did proceed, and the Judge came back on the bench, and we continued.

Q. Was he warned a number of times to be quiet by Judge Teahan?

A. He was warned several times by Judge Teahan to stop and to please be quiet.

Q. And, did he comply with the orders of the Judge?

A. Absolutely not.

Q. Do you have Mr. Almahdi's date of birth?

A. Looks like 8/9/51.

MS. OGULEWICZ: Thank you. Do the members of the Grand Jury have any questions?

GRAND JUROR: Mr. Almahdi mentioned in his report here that he wasn't under the influence of alcohol. In your opinion, do you think he was?

THE WITNESS: No. Although I -- because

I know Mr. Almahdi, I do know of him to have at times be taking --

MS. OGULEWICZ: I would ask you not respond to that question in that fashion.

Q. Was there anything that you witnessed at that point when you observed Mr. Almahdi that led you to believe that he was under the influence of drugs or alcohol on that date?

A. No.

Q. Did you smell any alcohol?

A. No.

Q. And, when he was brought into the courtroom where had he previously been? Had he been located in --

A. In the hallway I assume, or outside, one or the other.

MS. OGULEWICZ: Does anybody else have any questions at this point in time?

There being no show of hands, may the witness be excused, ladies and gentlemen?

GRAND JURY: Thank you.

THE WITNESS: Thank you very much.

* * * * *

MS. OGULEWICZ: I would just like to

make one cautionary instruction, that any reference to use of any substances or alcohol would be irrelevant in terms of past usage. Only -- You asked a question with regards to whether he thought he was under the influence on that date. You can take that answer into account, but any reference that Court Officer Mullins had begun to utter about past usage or otherwise are irrelevant to your deliberations in the matter.

Thank you.

* * * * *

(Conclusion of the Grand Jury minutes.)

* * * * *

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF HAMPDEN

I, LINDA CLAIN, do hereby certify that the foregoing is a true and accurate copy of my stenographic notes to the best of my knowledge and ability.

Linda Clain
Grand Jury Reporter

* * * * *